
SUBSTITUTE HOUSE BILL 1580

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Finance (originally sponsored by Representatives Takko, Orcutt, Lovick and Sells)

READ FIRST TIME 3/5/07.

1 AN ACT Relating to consolidating designated forest lands and open
2 space timber lands for ease of administration; amending RCW 84.33.035,
3 84.33.130, 84.33.140, 84.33.145, 84.34.030, 84.34.041, 84.34.070,
4 84.34.330, 84.34.340, and 84.34.370; and adding a new section to
5 chapter 84.34 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 84.33.035 and 2004 c 177 s 1 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Agricultural methods" means the cultivation of trees that are
12 grown on land prepared by intensive cultivation and tilling, such as
13 irrigating, plowing, or turning over the soil, and on which all
14 unwanted plant growth is controlled continuously for the exclusive
15 purpose of raising trees such as Christmas trees and short-rotation
16 hardwoods.

17 (2) "Average rate of inflation" means the annual rate of inflation
18 as determined by the department averaged over the period of time as

1 provided in RCW 84.33.220 (1) and (2). This rate shall be published in
2 the state register by the department not later than January 1st of each
3 year for use in that assessment year.

4 (3) "Commercial purposes" means the use of the forest land on a
5 continuous and regular basis after application for designation that
6 demonstrates the owner will engage in and intends to obtain, through
7 lawful means, monetary profit from cash income by growing and
8 harvesting timber, including timber grown using the methods described
9 in subsection (1) of this section. However, this requirement does not
10 apply if there is a governmental restriction that prohibits, in whole
11 or in part, the owner from harvesting timber from the parcel.

12 (4) "Composite property tax rate" for a county means the total
13 amount of property taxes levied upon forest lands by all taxing
14 districts in the county other than the state, divided by the total
15 assessed value of all forest land in the county.

16 ~~((4))~~ (5) "Forest land" is synonymous with "designated forest
17 land" and means any parcel of land that is ~~((twenty))~~ five or more
18 acres or multiple parcels of land that are contiguous and total
19 ~~((twenty))~~ five or more acres that is or are devoted primarily to
20 growing and harvesting timber for commercial purposes as defined in
21 this section. Designated forest land means the land only and does not
22 include a residential homesite. The term includes land used for
23 incidental uses that are compatible with the growing and harvesting of
24 timber but no more than ten percent of the land may be used for such
25 incidental uses. It also includes the land on which appurtenances
26 necessary for the production, preparation, or sale of the timber
27 products exist in conjunction with land producing these products.

28 ~~((5))~~ (6) "Harvested" means the time when in the ordinary course
29 of business the quantity of timber by species is first definitely
30 determined. The amount harvested shall be determined by the Scribner
31 Decimal C Scale or other prevalent measuring practice adjusted to
32 arrive at substantially equivalent measurements, as approved by the
33 department.

34 ~~((6))~~ (7) "Harvester" means every person who from the person's
35 own land or from the land of another under a right or license granted
36 by lease or contract, either directly or by contracting with others for
37 the necessary labor or mechanical services, fells, cuts, or takes
38 timber for sale or for commercial or industrial use. When the United

1 States or any instrumentality thereof, the state, including its
2 departments and institutions and political subdivisions, or any
3 municipal corporation therein so fells, cuts, or takes timber for sale
4 or for commercial or industrial use, the harvester is the first person
5 other than the United States or any instrumentality thereof, the state,
6 including its departments and institutions and political subdivisions,
7 or any municipal corporation therein, who acquires title to or a
8 possessory interest in the timber. The term "harvester" does not
9 include persons performing under contract the necessary labor or
10 mechanical services for a harvester.

11 ~~((7))~~ (8) "Harvesting and marketing costs" means only those costs
12 directly associated with harvesting the timber from the land and
13 delivering it to the buyer and may include the costs of disposing of
14 logging residues. Any other costs that are not directly and
15 exclusively related to harvesting and marketing of the timber, such as
16 costs of permanent roads or costs of reforesting the land following
17 harvest, are not harvesting and marketing costs.

18 ~~((8))~~ (9) "Incidental use" means a use of designated forest land
19 that is compatible with its purpose for growing and harvesting timber.
20 An incidental use may include a gravel pit, a shed or land used to
21 store machinery or equipment used in conjunction with the timber
22 enterprise, and any other use that does not interfere with or indicate
23 that the forest land is no longer primarily being used to grow and
24 harvest timber.

25 ~~((9))~~ (10) "Local government" means any city, town, county,
26 water-sewer district, public utility district, port district,
27 irrigation district, flood control district, or any other municipal
28 corporation, quasi-municipal corporation, or other political
29 subdivision authorized to levy special benefit assessments for sanitary
30 or storm sewerage systems, domestic water supply or distribution
31 systems, or road construction or improvement purposes.

32 ~~((10))~~ (11) "Local improvement district" means any local
33 improvement district, utility local improvement district, local utility
34 district, road improvement district, or any similar unit created by a
35 local government for the purpose of levying special benefit assessments
36 against property specially benefited by improvements relating to the
37 districts.

1 (~~(11)~~) (12) "Owner" means the party or parties having the fee
2 interest in land, except where land is subject to a real estate
3 contract "owner" means the contract vendee.

4 (~~(12)~~) (13) "Primarily" or "primary use" means the existing use
5 of the land is so prevalent that when the characteristic use of the
6 land is evaluated any other use appears to be conflicting or
7 nonrelated.

8 (~~(13)~~) (14) "Short-rotation hardwoods" means hardwood trees, such
9 as but not limited to hybrid cottonwoods, cultivated by agricultural
10 methods in growing cycles shorter than fifteen years.

11 (~~(14)~~) (15) "Small harvester" means every person who from his or
12 her own land or from the land of another under a right or license
13 granted by lease or contract, either directly or by contracting with
14 others for the necessary labor or mechanical services, fells, cuts, or
15 takes timber for sale or for commercial or industrial use in an amount
16 not exceeding two million board feet in a calendar year. When the
17 United States or any instrumentality thereof, the state, including its
18 departments and institutions and political subdivisions, or any
19 municipal corporation therein so fells, cuts, or takes timber for sale
20 or for commercial or industrial use, not exceeding these amounts, the
21 small harvester is the first person other than the United States or any
22 instrumentality thereof, the state, including its departments and
23 institutions and political subdivisions, or any municipal corporation
24 therein, who acquires title to or a possessory interest in the timber.
25 Small harvester does not include persons performing under contract the
26 necessary labor or mechanical services for a harvester, and it does not
27 include the harvesters of Christmas trees or short-rotation hardwoods.

28 (~~(15)~~) (16) "Special benefit assessments" means special
29 assessments levied or capable of being levied in any local improvement
30 district or otherwise levied or capable of being levied by a local
31 government to pay for all or part of the costs of a local improvement
32 and which may be levied only for the special benefits to be realized by
33 property by reason of that local improvement.

34 (~~(16)~~) (17) "Stumpage value of timber" means the appropriate
35 stumpage value shown on tables prepared by the department under RCW
36 84.33.091, provided that for timber harvested from public land and sold
37 under a competitive bidding process, stumpage value shall mean the
38 actual amount paid to the seller in cash or other consideration. The

1 stumpage value of timber from public land does not include harvesting
2 and marketing costs if the timber from public land is harvested by, or
3 under contract for, the United States or any instrumentality of the
4 United States, the state, including its departments and institutions
5 and political subdivisions, or any municipal corporation therein.
6 Whenever payment for the stumpage includes considerations other than
7 cash, the value shall be the fair market value of the other
8 consideration. If the other consideration is permanent roads, the
9 value of the roads shall be the appraised value as appraised by the
10 seller.

11 ~~((17))~~ (18) "Timber" means forest trees, standing or down, on
12 privately or publicly owned land, and except as provided in RCW
13 84.33.170 includes Christmas trees and short-rotation hardwoods.

14 ~~((18))~~ (19) "Timber assessed value" for a county means the sum
15 of: (a) The total stumpage value of timber harvested from publicly
16 owned land in the county multiplied by the public timber ratio, plus;
17 (b) the total stumpage value of timber harvested from privately owned
18 land in the county multiplied by the private timber ratio. The
19 numerator of the public timber ratio is the rate of tax imposed by the
20 county under RCW 84.33.051 on public timber harvests for the year of
21 the calculation. The numerator of the private timber ratio is the rate
22 of tax imposed by the county under RCW 84.33.051 on private timber
23 harvests for the year of the calculation. The denominator of the
24 private timber ratio and the public timber ratio is the composite
25 property tax rate for the county for taxes due in the year of the
26 calculation, expressed as a percentage of assessed value. The
27 department shall use the stumpage value of timber harvested during the
28 most recent four calendar quarters for which the information is
29 available. The department shall calculate the timber assessed value
30 for each county before October 1st of each year.

31 ~~((19))~~ (20) "Timber assessed value" for a taxing district means
32 the timber assessed value for the county multiplied by a ratio. The
33 numerator of the ratio is the total assessed value of forest land in
34 the taxing district. The denominator is the total assessed value of
35 forest land in the county. As used in this section, "assessed value of
36 forest land" means the assessed value of forest land for taxes due in
37 the year the timber assessed value for the county is calculated plus an
38 additional value for public forest land. The additional value for

1 public forest land is the product of the number of acres of public
2 forest land that are available for timber harvesting determined under
3 RCW 84.33.089 and the average assessed value per acre of private forest
4 land in the county.

5 ~~((+20))~~ (21) "Timber management plan" means a plan prepared by a
6 trained forester, or any other person with adequate knowledge of timber
7 management practices, concerning the use of the land to grow and
8 harvest timber. Such a plan ~~((includes))~~ may include:

9 (a) A legal description of the forest land;

10 (b) A statement that the forest land is held in contiguous
11 ownership of ~~((twenty))~~ five or more acres and is primarily devoted to
12 and used to grow and harvest timber;

13 (c) A brief description of the timber on the forest land or, if the
14 timber on the land has been harvested, the owner's plan to restock the
15 land with timber;

16 (d) A statement about whether the forest land is also used to graze
17 livestock;

18 (e) A statement about whether the land has been used in compliance
19 with the restocking, forest management, fire protection, insect and
20 disease control, and forest debris provisions of Title 76 RCW; and

21 (f) If the land has been recently harvested or supports a growth of
22 brush and noncommercial type timber, a description of the owner's plan
23 to restock the forest land within three years.

24 **Sec. 2.** RCW 84.33.130 and 2003 c 170 s 4 are each amended to read
25 as follows:

26 (1)~~(a)~~(i) Notwithstanding any other provision of law, lands that
27 were assessed as classified forest land before July 22, 2001, or as
28 open space timber land under chapter 84.34 RCW before the merger date
29 adopted by the county under section 5 of this act, shall be designated
30 forest land for the purposes of this chapter.

31 (ii) The owners of ~~((previously classified forest))~~ land subject to
32 the requirements of (a)(i) of this subsection shall not be required to
33 apply for designation under this chapter. ~~((As of July 22, 2001,))~~ The
34 land and timber on such land shall be assessed and taxed in accordance
35 with the provisions of this chapter as of the date the land is
36 designated forest land under (a)(i) of this subsection.

1 (b) If a county legislative authority opts under section 5 of this
2 act to merge its open space timber land program with the designated
3 forest land program of the county, the following provisions apply
4 beginning on the adopted merger date:

5 (i) The date the property was classified as open space timber land
6 before the merger shall be considered to be the date the property was
7 designated as forest land under this chapter;

8 (ii) The county assessor shall notify each owner of open space
9 timber land of the merger by certified mail; and

10 (iii) For any forest land subject to the provisions of (b)(i) of
11 this subsection that is then removed from designation, only
12 compensating tax shall be collected as a result of the removal in
13 accordance with RCW 84.33.140(12), unless otherwise provided by law.

14 (2) An owner of land desiring that it be designated as forest land
15 and valued under RCW 84.33.140 as of January 1st of any year shall
16 submit an application to the assessor of the county in which the land
17 is located before January 1st of that year. The application shall be
18 accompanied by a reasonable processing fee when the county legislative
19 authority has established the requirement for such a fee.

20 (3) No application of designation is required when publicly owned
21 forest land is exchanged for privately owned forest land designated
22 under this chapter. The land exchanged and received by an owner
23 subject to ad valorem taxation shall be automatically granted
24 designation under this chapter if the following conditions are met:

25 (a) The land will be used to grow and harvest timber; and

26 (b) The owner of the land submits a document to the assessor's
27 office that explains the details of the forest land exchange within
28 sixty days of the closing date of the exchange. However, if the owner
29 fails to submit information regarding the exchange by the end of this
30 sixty-day period, the owner must file an application for designation as
31 forest land under this chapter and the regular application process will
32 be followed.

33 (4) The application shall be made upon forms prepared by the
34 department and supplied by the assessor, and shall include the
35 following:

36 (a) A legal description of, or assessor's parcel numbers for, all
37 land the applicant desires to be designated as forest land;

38 (b) The date or dates of acquisition of the land;

- 1 (c) A brief description of the timber on the land, or if the timber
2 has been harvested, the owner's plan for restocking;
- 3 (d) A copy of the timber management plan, if one exists, for the
4 land prepared by a trained forester or any other person with adequate
5 knowledge of timber management practices;
- 6 (e) If a timber management plan exists, an explanation of the
7 nature and extent to which the management plan has been implemented;
- 8 (f) Whether the land is used for grazing;
- 9 (g) Whether the land has been subdivided or a plat has been filed
10 with respect to the land;
- 11 (h) Whether the land and the applicant are in compliance with the
12 restocking, forest management, fire protection, insect and disease
13 control, and forest debris provisions of Title 76 RCW or any applicable
14 rules under Title 76 RCW;
- 15 (i) Whether the land is subject to forest fire protection
16 assessments under RCW 76.04.610;
- 17 (j) Whether the land is subject to a lease, option, or other right
18 that permits it to be used for any purpose other than growing and
19 harvesting timber;
- 20 (k) A summary of the past experience and activity of the applicant
21 in growing and harvesting timber;
- 22 (l) A summary of current and continuing activity of the applicant
23 in growing and harvesting timber;
- 24 (m) A statement that the applicant is aware of the potential tax
25 liability involved when the land ceases to be designated as forest
26 land;
- 27 (n) An affirmation that the statements contained in the application
28 are true and that the land described in the application meets the
29 definition of forest land in RCW 84.33.035; and
- 30 (o) A description and/or drawing showing what areas of land for
31 which designation is sought are used for incidental uses compatible
32 with the definition of forest land in RCW 84.33.035.
- 33 (5) The assessor shall afford the applicant an opportunity to be
34 heard if the applicant so requests.
- 35 (6) The assessor shall act upon the application with due regard to
36 all relevant evidence and without any one or more items of evidence
37 necessarily being determinative, except that the application may be
38 denied for one of the following reasons, without regard to other items:

1 (a) The land does not contain a "merchantable stand of timber" as
2 defined in chapter 76.09 RCW and applicable rules. This reason shall
3 not alone be sufficient to deny the application (i) if the land has
4 been recently harvested or supports a growth of brush or noncommercial
5 type timber, and the application includes a plan for restocking within
6 three years or a longer period necessitated by unavailability of seed
7 or seedlings, or (ii) if only isolated areas within the land do not
8 meet the minimum standards due to rock outcroppings, swamps,
9 unproductive soil or other natural conditions;

10 (b) The applicant, with respect to the land, has failed to comply
11 with a final administrative or judicial order with respect to a
12 violation of the restocking, forest management, fire protection, insect
13 and disease control, and forest debris provisions of Title 76 RCW or
14 any applicable rules under Title 76 RCW; or

15 (c) The land abuts a body of salt water and lies between the line
16 of ordinary high tide and a line paralleling the ordinary high tide
17 line and two hundred feet horizontally landward from the high tide
18 line. However, if the assessor determines that a higher and better use
19 exists for the land but this use would not be permitted or economically
20 feasible by virtue of any federal, state, or local law or regulation,
21 the land shall be assessed and valued under RCW 84.33.140 without being
22 designated as forest land.

23 (7) The application shall be deemed to have been approved unless,
24 prior to (~~May~~) July 1st of the year after the application was mailed
25 or delivered to the assessor, the assessor notifies the applicant in
26 writing of the extent to which the application is denied.

27 (8) An owner who receives notice that his or her application has
28 been denied, in whole or in part, may appeal the denial to the county
29 board of equalization in accordance with the provisions of RCW
30 84.40.038.

31 **Sec. 3.** RCW 84.33.140 and 2005 c 303 s 13 are each amended to read
32 as follows:

33 (1) When land has been designated as forest land under RCW
34 84.33.130, a notation of the designation shall be made each year upon
35 the assessment and tax rolls. A copy of the notice of approval
36 together with the legal description or assessor's parcel numbers for

1 the land shall, at the expense of the applicant, be filed by the
2 assessor in the same manner as deeds are recorded.

3 (2) In preparing the assessment roll as of January 1, 2002, for
4 taxes payable in 2003 and each January 1st thereafter, the assessor
5 shall list each parcel of designated forest land at a value with
6 respect to the grade and class provided in this subsection and adjusted
7 as provided in subsection (3) of this section. The assessor shall
8 compute the assessed value of the land using the same assessment ratio
9 applied generally in computing the assessed value of other property in
10 the county. Values for the several grades of bare forest land shall be
11 as follows:

12	LAND	OPERABILITY	VALUES
13	GRADE	CLASS	PER ACRE
14		1	\$234
15	1	2	229
16		3	217
17		4	157
18		1	198
19	2	2	190
20		3	183
21		4	132
22		1	154
23	3	2	149
24		3	148
25		4	113
26		1	117
27	4	2	114
28		3	113
29		4	86
30		1	85
31	5	2	78
32		3	77
33		4	52
34		1	43
35	6	2	39
36		3	39

1		4	37
2		1	21
3	7	2	21
4		3	20
5		4	20
6	8		1

7 (3) On or before December 31, 2001, the department shall adjust by
8 rule under chapter 34.05 RCW, the forest land values contained in
9 subsection (2) of this section in accordance with this subsection, and
10 shall certify the adjusted values to the assessor who will use these
11 values in preparing the assessment roll as of January 1, 2002. For the
12 adjustment to be made on or before December 31, 2001, for use in the
13 2002 assessment year, the department shall:

14 (a) Divide the aggregate value of all timber harvested within the
15 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
16 volume for the same period, as determined from the harvester excise tax
17 returns filed with the department under RCW 84.33.074; and

18 (b) Divide the aggregate value of all timber harvested within the
19 state between July 1, 1995, and June 30, 2000, by the aggregate harvest
20 volume for the same period, as determined from the harvester excise tax
21 returns filed with the department under RCW 84.33.074; and

22 (c) Adjust the forest land values contained in subsection (2) of
23 this section by a percentage equal to one-half of the percentage change
24 in the average values of harvested timber reflected by comparing the
25 resultant values calculated under (a) and (b) of this subsection.

26 (4) For the adjustments to be made on or before December 31, 2002,
27 and each succeeding year thereafter, the same procedure described in
28 subsection (3) of this section shall be followed using harvester excise
29 tax returns filed under RCW 84.33.074. However, this adjustment shall
30 be made to the prior year's adjusted value, and the five-year periods
31 for calculating average harvested timber values shall be successively
32 one year more recent.

33 (5) Land graded, assessed, and valued as forest land shall continue
34 to be so graded, assessed, and valued until removal of designation by
35 the assessor upon the occurrence of any of the following:

36 (a) Receipt of notice from the owner to remove the designation;

37 (b) Sale or transfer to an ownership making the land exempt from ad
38 valorem taxation;

1 (c) Sale or transfer of all or a portion of the land to a new
2 owner, unless the new owner has signed a notice of forest land
3 designation continuance, except transfer to an owner who is an heir or
4 devisee of a deceased owner, shall not, by itself, result in removal of
5 designation. The signed notice of continuance shall be attached to the
6 real estate excise tax affidavit provided for in RCW 82.45.150. The
7 notice of continuance shall be on a form prepared by the department.
8 If the notice of continuance is not signed by the new owner and
9 attached to the real estate excise tax affidavit, all compensating
10 taxes calculated under subsection (11) of this section shall become due
11 and payable by the seller or transferor at time of sale. The auditor
12 shall not accept an instrument of conveyance regarding designated
13 forest land for filing or recording unless the new owner has signed the
14 notice of continuance or the compensating tax has been paid, as
15 evidenced by the real estate excise tax stamp affixed thereto by the
16 treasurer. The seller, transferor, or new owner may appeal the new
17 assessed valuation calculated under subsection (11) of this section to
18 the county board of equalization in accordance with the provisions of
19 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
20 equalization to hear these appeals;

21 (d) Determination by the assessor, after giving the owner written
22 notice and an opportunity to be heard, that:

23 (i) The land is no longer primarily devoted to and used for growing
24 and harvesting timber. However, land shall not be removed from
25 designation if a governmental agency, organization, or other recipient
26 identified in subsection (13) or (14) of this section as exempt from
27 the payment of compensating tax has manifested its intent in writing or
28 by other official action to acquire a property interest in the
29 designated forest land by means of a transaction that qualifies for an
30 exemption under subsection (13) or (14) of this section. The
31 governmental agency, organization, or recipient shall annually provide
32 the assessor of the county in which the land is located reasonable
33 evidence in writing of the intent to acquire the designated land as
34 long as the intent continues or within sixty days of a request by the
35 assessor. The assessor may not request this evidence more than once in
36 a calendar year;

37 (ii) The owner has failed to comply with a final administrative or
38 judicial order with respect to a violation of the restocking, forest

1 management, fire protection, insect and disease control, and forest
2 debris provisions of Title 76 RCW or any applicable rules under Title
3 76 RCW; or

4 (iii) Restocking has not occurred to the extent or within the time
5 specified in the application for designation of such land.

6 (6) Land shall not be removed from designation if there is a
7 governmental restriction that prohibits, in whole or in part, the owner
8 from harvesting timber from the owner's designated forest land. If
9 only a portion of the parcel is impacted by governmental restrictions
10 of this nature, the restrictions cannot be used as a basis to remove
11 the remainder of the forest land from designation under this chapter.
12 For the purposes of this section, "governmental restrictions" includes:

13 (a) Any law, regulation, rule, ordinance, program, or other action
14 adopted or taken by a federal, state, county, city, or other
15 governmental entity; or (b) the land's zoning or its presence within an
16 urban growth area designated under RCW 36.70A.110.

17 (7) The assessor shall have the option of requiring an owner of
18 forest land to file a timber management plan with the assessor upon the
19 occurrence of one of the following:

20 (a) An application for designation as forest land is submitted;
21 (~~(e)~~)

22 (b) Designated forest land is sold or transferred and a notice of
23 continuance, described in subsection (5)(c) of this section, is signed;
24 or

25 (c) The assessor has reason to believe that the land is no longer
26 being used as designated forest land. In this case, the assessor can
27 require such a plan to determine whether the land can continue as
28 designated forest land.

29 (8) If land is removed from designation because of any of the
30 circumstances listed in subsection (5)(a) through (c) of this section,
31 the removal shall apply only to the land affected. If land is removed
32 from designation because of subsection (5)(d) of this section, the
33 removal shall apply only to the actual area of land that is no longer
34 primarily devoted to the growing and harvesting of timber, without
35 regard to any other land that may have been included in the application
36 and approved for designation, as long as the remaining designated
37 forest land meets the definition of forest land contained in RCW
38 84.33.035.

1 (9) Within thirty days after the removal of designation as forest
2 land, the assessor shall notify the owner in writing, setting forth the
3 reasons for the removal. The seller, transferor, or owner may appeal
4 the removal to the county board of equalization in accordance with the
5 provisions of RCW 84.40.038.

6 (10) Unless the removal is reversed on appeal a copy of the notice
7 of removal with a notation of the action, if any, upon appeal, together
8 with the legal description or assessor's parcel numbers for the land
9 removed from designation shall, at the expense of the applicant, be
10 filed by the assessor in the same manner as deeds are recorded and a
11 notation of removal from designation shall immediately be made upon the
12 assessment and tax rolls. The assessor shall revalue the land to be
13 removed with reference to its true and fair value as of January 1st of
14 the year of removal from designation. Both the assessed value before
15 and after the removal of designation shall be listed. Taxes based on
16 the value of the land as forest land shall be assessed and payable up
17 until the date of removal and taxes based on the true and fair value of
18 the land shall be assessed and payable from the date of removal from
19 designation.

20 (11) Except as provided in subsection (5)(c), (13), or (14) of this
21 section, a compensating tax shall be imposed on land removed from
22 designation as forest land. The compensating tax shall be due and
23 payable to the treasurer thirty days after the owner is notified of the
24 amount of this tax. As soon as possible after the land is removed from
25 designation, the assessor shall compute the amount of compensating tax
26 and mail a notice to the owner of the amount of compensating tax owed
27 and the date on which payment of this tax is due. The amount of
28 compensating tax shall be equal to the difference between the amount of
29 tax last levied on the land as designated forest land and an amount
30 equal to the new assessed value of the land multiplied by the dollar
31 rate of the last levy extended against the land, multiplied by a
32 number, in no event greater than nine, equal to the number of years for
33 which the land was designated as forest land, plus compensating taxes
34 on the land at forest land values up until the date of removal and the
35 prorated taxes on the land at true and fair value from the date of
36 removal to the end of the current tax year.

37 (12) Compensating tax, together with applicable interest thereon,
38 shall become a lien on the land which shall attach at the time the land

1 is removed from designation as forest land and shall have priority to
2 and shall be fully paid and satisfied before any recognizance,
3 mortgage, judgment, debt, obligation, or responsibility to or with
4 which the land may become charged or liable. The lien may be
5 foreclosed upon expiration of the same period after delinquency and in
6 the same manner provided by law for foreclosure of liens for delinquent
7 real property taxes as provided in RCW 84.64.050. Any compensating tax
8 unpaid on its due date shall thereupon become delinquent. From the
9 date of delinquency until paid, interest shall be charged at the same
10 rate applied by law to delinquent ad valorem property taxes.

11 (13) The compensating tax specified in subsection (11) of this
12 section shall not be imposed if the removal of designation under
13 subsection (5) of this section resulted solely from:

14 (a) Transfer to a government entity in exchange for other forest
15 land located within the state of Washington;

16 (b) A taking through the exercise of the power of eminent domain,
17 or sale or transfer to an entity having the power of eminent domain in
18 anticipation of the exercise of such power;

19 (c) A donation of fee title, development rights, or the right to
20 harvest timber, to a government agency or organization qualified under
21 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
22 sections, or the sale or transfer of fee title to a governmental entity
23 or a nonprofit nature conservancy corporation, as defined in RCW
24 64.04.130, exclusively for the protection and conservation of lands
25 recommended for state natural area preserve purposes by the natural
26 heritage council and natural heritage plan as defined in chapter 79.70
27 RCW or approved for state natural resources conservation area purposes
28 as defined in chapter 79.71 RCW. At such time as the land is not used
29 for the purposes enumerated, the compensating tax specified in
30 subsection (11) of this section shall be imposed upon the current
31 owner;

32 (d) The sale or transfer of fee title to the parks and recreation
33 commission for park and recreation purposes;

34 (e) Official action by an agency of the state of Washington or by
35 the county or city within which the land is located that disallows the
36 present use of the land;

37 (f) The creation, sale, or transfer of forestry riparian easements
38 under RCW 76.13.120;

1 (g) The creation, sale, or transfer of a fee interest or a
2 conservation easement for the riparian open space program under RCW
3 76.09.040; or

4 (h) The sale or transfer of land within two years after the death
5 of the owner of at least a fifty percent interest in the land if the
6 land has been assessed and valued as classified forest land, designated
7 as forest land under this chapter, or classified under chapter 84.34
8 RCW continuously since 1993. The date of death shown on a death
9 certificate is the date used for the purposes of this subsection
10 (~~((13)(h); or~~

11 ~~(i) The sale or transfer of land after the death of the owner of at~~
12 ~~least a fifty percent interest in the land if the land has been~~
13 ~~assessed and valued as classified forest land, designated as forest~~
14 ~~land under this chapter, or classified under chapter 84.34 RCW~~
15 ~~continuously since 1993 and the sale or transfer takes place after July~~
16 ~~22, 2001, and on or before July 22, 2003, and the death of the owner~~
17 ~~occurred after January 1, 1991. The date of death shown on a death~~
18 ~~certificate is the date used for the purposes of this subsection~~
19 ~~(13)(i)).~~

20 (14) In a county with a population of more than one million
21 inhabitants, the compensating tax specified in subsection (11) of this
22 section shall not be imposed if the removal of designation as forest
23 land under subsection (5) of this section resulted solely from:

24 (a) An action described in subsection (13) of this section; or

25 (b) A transfer of a property interest to a government entity, or to
26 a nonprofit historic preservation corporation or nonprofit nature
27 conservancy corporation, as defined in RCW 64.04.130, to protect or
28 enhance public resources, or to preserve, maintain, improve, restore,
29 limit the future use of, or otherwise to conserve for public use or
30 enjoyment, the property interest being transferred. At such time as
31 the property interest is not used for the purposes enumerated, the
32 compensating tax shall be imposed upon the current owner.

33 **Sec. 4.** RCW 84.33.145 and 2001 c 249 s 4 are each amended to read
34 as follows:

35 (1) If no later than thirty days after removal of designation under
36 this chapter the owner applies for classification under:

37 (a) RCW 84.34.020(1)((7));

1 ~~(b)~~ RCW 84.34.020(2)~~(7)~~; or ~~((3))~~

2 (c) RCW 84.34.030(3), unless the open space timber land program and
3 designated forest land program are merged under section 5 of this act,
4 then, for the purposes of (a), (b), or (c) of this subsection, the
5 designated forest land shall not be considered removed from designation
6 for purposes of the compensating tax under RCW 84.33.140 until the
7 application for current use classification under chapter 84.34 RCW is
8 denied or the property is removed from classification under RCW
9 84.34.108.

10 (2) Upon removal of classification under RCW 84.34.108, the amount
11 of compensating tax due under this chapter shall be equal to:

12 (a) The difference, if any, between the amount of tax last levied
13 on the land as designated forest land and an amount equal to the new
14 assessed valuation of the land when removed from classification under
15 RCW 84.34.108 multiplied by the dollar rate of the last levy extended
16 against the land, multiplied by

17 (b) A number equal to:

18 (i) The number of years the land was designated under this chapter,
19 if the total number of years the land was designated under this chapter
20 and classified under chapter 84.34 RCW is less than ten; or

21 (ii) Ten minus the number of years the land was classified under
22 chapter 84.34 RCW, if the total number of years the land was designated
23 under this chapter and classified under chapter 84.34 RCW is at least
24 ten.

25 ~~((2))~~ (3) Nothing in this section authorizes the continued
26 designation under this chapter or defers or reduces the compensating
27 tax imposed upon forest land not transferred to classification under
28 subsection (1) of this section ~~((which))~~ that does not meet the
29 definition of forest land under RCW 84.33.035. Nothing in this section
30 affects the additional tax imposed under RCW 84.34.108.

31 ~~((3))~~ (4) In a county with a population of more than one million
32 inhabitants, no amount of compensating tax is due under this section if
33 the removal from classification under RCW 84.34.108 results from a
34 transfer of property described in RCW 84.34.108(6).

35 NEW SECTION. Sec. 5. A new section is added to chapter 84.34 RCW
36 to read as follows:

37 (1) A county legislative authority may opt to merge its open space

1 timber land program with the designated forest land program of the
2 county. To merge the programs, the authority must enact an ordinance
3 that (a) terminates the timber land program and (b) declares the land
4 that had been classified as timber land on the date the timber land
5 program is terminated to be designated forest land under chapter 84.33
6 RCW.

7 (2) After a county open space timber land program is terminated:

8 (a) Land that had been classified as open space timber land within
9 the county is deemed to be designated forest land under the provisions
10 of RCW 84.33.130(1) and is no longer considered to be classified timber
11 land for the purposes of this chapter.

12 (b) Any open space taxation agreement recorded with a county
13 legislative authority by an owner of land classified as open space
14 timber land is null and void.

15 **Sec. 6.** RCW 84.34.030 and 1989 c 378 s 10 are each amended to read
16 as follows:

17 (1) An owner of (~~agricultural~~) land desiring current use
18 classification under (~~subsection (2) of~~) RCW 84.34.020 shall make
19 application as follows:

20 (a) Application for classification under RCW 84.34.020(2) shall be
21 made to the county assessor upon forms prepared by the state department
22 of revenue and supplied by the county assessor. (~~An owner of open~~
23 space or timber land desiring current use))

24 (b) Application for classification under (~~subsections (1) and (3)~~
25 of)):

26 (i) RCW 84.34.020(1); or

27 (ii) RCW 84.34.020(3), unless the open space timber land program
28 and designated forest land program are merged under section 5 of this
29 act shall (~~make application~~) be made, for (i) or (ii) of this
30 subsection, to the county legislative authority upon forms prepared by
31 the state department of revenue and supplied by the county assessor.

32 (2) The application shall be accompanied by a reasonable processing
33 fee if (~~such~~) a processing fee is established by the city or county
34 legislative authority. Said application shall require only such
35 information reasonably necessary to properly classify an area of land
36 under this chapter with a notarized verification of the truth thereof
37 and shall include a statement that the applicant is aware of the

1 potential tax liability involved when ((such)) the land ceases to be
2 designated as open space, farm and agricultural or timber land.
3 Applications must be made during the calendar year preceding that in
4 which ((such)) classification is to begin.

5 (3) The assessor shall make necessary information, including copies
6 of this chapter and applicable regulations, readily available to
7 interested parties, and shall render reasonable assistance to such
8 parties upon request.

9 **Sec. 7.** RCW 84.34.041 and 2002 c 315 s 2 are each amended to read
10 as follows:

11 (1) An application for current use classification or
12 reclassification under RCW 84.34.020(3) shall be made to the county
13 legislative authority.

14 ((1)) The application shall be made upon forms prepared by the
15 department of revenue and supplied by the granting authority and shall
16 include the following elements that constitute a timber management
17 plan:

18 (a) A legal description of, or assessor's parcel numbers for, all
19 land the applicant desires to be classified as timber land;

20 (b) The date or dates of acquisition of the land;

21 (c) A brief description of the timber on the land, or if the timber
22 has been harvested, the owner's plan for restocking;

23 (d) Whether there is a forest management plan for the land;

24 (e) If so, the nature and extent of implementation of the plan;

25 (f) Whether the land is used for grazing;

26 (g) Whether the land has been subdivided or a plat filed with
27 respect to the land;

28 (h) Whether the land and the applicant are in compliance with the
29 restocking, forest management, fire protection, insect and disease
30 control, weed control, and forest debris provisions of Title 76 RCW or
31 applicable rules under Title 76 RCW;

32 (i) Whether the land is subject to forest fire protection
33 assessments pursuant to RCW 76.04.610;

34 (j) Whether the land is subject to a lease, option, or other right
35 that permits it to be used for a purpose other than growing and
36 harvesting timber;

1 (k) A summary of the past experience and activity of the applicant
2 in growing and harvesting timber;

3 (l) A summary of current and continuing activity of the applicant
4 in growing and harvesting timber;

5 (m) A statement that the applicant is aware of the potential tax
6 liability involved when the land ceases to be classified as timber
7 land.

8 (2) An application made for classification of land under RCW
9 84.34.020(3) shall be acted upon after a public hearing and after
10 notice of the hearing is given by one publication in a newspaper of
11 general circulation in the area at least ten days before the hearing.
12 Application for classification of land in an incorporated area shall be
13 acted upon by a granting authority composed of three members of the
14 county legislative body and three members of the city legislative body
15 in which the land is located.

16 (3) The granting authority shall act upon the application with due
17 regard to all relevant evidence and without any one or more items of
18 evidence necessarily being determinative, except that the application
19 may be denied for one of the following reasons, without regard to other
20 items:

21 (a) The land does not contain a stand of timber as defined in
22 chapter 76.09 RCW and applicable rules, except this reason shall not
23 alone be sufficient to deny the application (i) if the land has been
24 recently harvested or supports a growth of brush or noncommercial type
25 timber, and the application includes a plan for restocking within three
26 years or the longer period necessitated by unavailability of seed or
27 seedlings, or (ii) if only isolated areas within the land do not meet
28 minimum standards due to rock outcroppings, swamps, unproductive soil,
29 or other natural conditions;

30 (b) The applicant, with respect to the land, has failed to comply
31 with a final administrative or judicial order with respect to a
32 violation of the restocking, forest management, fire protection, insect
33 and disease control, weed control, and forest debris provisions of
34 Title 76 RCW or applicable rules under Title 76 RCW;

35 (c) The land abuts a body of salt water and lies between the line
36 of ordinary high tide and a line paralleling the ordinary high tide
37 line and two hundred feet horizontally landward from the high tide
38 line.

1 (4) The timber management plan must be filed with the county
2 legislative authority either: (a) When an application for
3 classification under this chapter is submitted; (b) when a sale or
4 transfer of timber land occurs and a notice of continuance is signed;
5 or (c) within sixty days of the date the application for
6 reclassification under this chapter or from designated forest land is
7 received. The application for reclassification shall be accepted, but
8 shall not be processed until the timber management plan is received.
9 If the timber management plan is not received within sixty days of the
10 date the application for reclassification is received, the application
11 for reclassification shall be denied.

12 If circumstances require it, the county assessor may allow in
13 writing an extension of time for submitting a timber management plan
14 when an application for classification or reclassification or notice of
15 continuance is filed. When the assessor approves an extension of time
16 for filing the timber management plan, the county legislative authority
17 may delay processing an application until the timber management plan is
18 received. If the timber management plan is not received by the date
19 set by the assessor, the application or the notice of continuance shall
20 be denied.

21 The granting authority may approve the application with respect to
22 only part of the land that is described in the application, and if any
23 part of the application is denied, the applicant may withdraw the
24 entire application. The granting authority, in approving in part or
25 whole an application for land classified pursuant to RCW 84.34.020(3),
26 may also require that certain conditions be met.

27 Granting or denial of an application for current use classification
28 is a legislative determination and shall be reviewable only for
29 arbitrary and capricious actions. The granting authority may not
30 require the granting of easements for land classified pursuant to RCW
31 84.34.020(3).

32 The granting authority shall approve or disapprove an application
33 made under this section within six months following the date the
34 application is received.

35 (5) No application may be approved under this section, and land may
36 not otherwise be classified or reclassified under RCW 84.34.020(3), if
37 programs are merged under section 5 of this act.

1 **Sec. 8.** RCW 84.34.070 and 1992 c 69 s 10 are each amended to read
2 as follows:

3 (1) When land has once been classified under this chapter, it shall
4 remain under such classification and shall not be applied to other use
5 except as provided by subsection (2) of this section for at least ten
6 years from the date of classification (~~and~~). It shall continue under
7 such classification until and unless withdrawn from classification
8 after notice of request for withdrawal shall be made by the owner.
9 During any year after eight years of the initial ten-year
10 classification period have elapsed, notice of request for withdrawal of
11 all or a portion of the land may be given by the owner to the assessor
12 or assessors of the county or counties in which (~~such~~) the land is
13 situated. In the event that a portion of a parcel is removed from
14 classification, the remaining portion must meet the same requirements
15 as did the entire parcel when (~~such~~) the land was originally granted
16 classification (~~pursuant to~~) under this chapter unless the remaining
17 parcel has different income criteria. Within seven days the assessor
18 shall transmit one copy of (~~such~~) the notice to the legislative body
19 (~~which~~) that originally approved the application. The assessor or
20 assessors, as the case may be, shall, when two assessment years have
21 elapsed following the date of receipt of (~~such~~) the notice, withdraw
22 (~~such~~) the land from (~~such~~) the classification and the land shall
23 be subject to the additional tax and applicable interest due under RCW
24 84.34.108. The open space taxation agreement to tax according to use
25 shall not be considered to be a contract and can be abrogated at any
26 time by the legislature in which event no additional tax or penalty
27 shall be imposed.

28 (2)(a) The following reclassifications are not considered
29 withdrawals or removals and are not subject to additional tax under RCW
30 84.34.108:

31 (~~(a)~~) (i) Reclassification between lands under RCW 84.34.020 (2)
32 and (3);

33 (~~(b)~~) (ii) Reclassification of land classified under RCW
34 84.34.020 (2) or (3) or designated under chapter 84.33 RCW to open
35 space land under RCW 84.34.020(1);

36 (~~(c)~~) (iii) Reclassification of land classified under RCW
37 84.34.020 (2) or (3) to forest land (~~classified~~) designated under
38 chapter 84.33 RCW; and

1 ~~((d))~~ (iv) Reclassification of land classified as open space land
2 under RCW 84.34.020(1)(c) and reclassified to farm and agricultural
3 land under RCW 84.34.020(2) if the land had been previously classified
4 as farm and agricultural land under RCW 84.34.020(2).

5 (b) Designation as forest land under RCW 84.33.130(1) as a result
6 of a merger of programs adopted under section 5 of this act is not
7 considered a withdrawal or removal and is not subject to additional tax
8 under RCW 84.34.108.

9 (3) Applications for reclassification shall be subject to
10 applicable provisions of RCW 84.34.037, 84.34.035, ~~((84.34.041,))~~ and
11 chapter 84.33 RCW.

12 (4) The income criteria for land classified under RCW 84.34.020(2)
13 (b) and (c) may be deferred for land being reclassified from land
14 classified under RCW 84.34.020(1)(c) ~~((or (3))~~), or chapter 84.33 RCW
15 into RCW 84.34.020(2) (b) or (c) for a period of up to five years from
16 the date of reclassification.

17 **Sec. 9.** RCW 84.34.330 and 1992 c 52 s 17 are each amended to read
18 as follows:

19 Whenever farm and agricultural land or timber land has once been
20 exempted from special benefit assessments ~~((pursuant to))~~ under RCW
21 84.34.320, and except as provided in subsection (4) of this section,
22 any withdrawal or removal from classification or change in use from
23 farm and agricultural land or timber land under chapter 84.34 RCW shall
24 result in the following:

25 (1) If the bonds used to fund the improvement in the local
26 improvement district have not been completely retired, ~~((such))~~ the
27 land shall immediately become liable for: (a) The amount of the
28 special benefit assessment listed in the notice provided for in RCW
29 84.34.320; plus (b) interest on the amount determined in (1)(a) of this
30 section, compounded annually at a rate equal to the average rate of
31 inflation from the time the initial notice is filed by the governmental
32 entity ~~((which))~~ that created the local improvement district as
33 provided in RCW 84.34.320 to the time the owner withdraws ~~((such))~~ or
34 removes the land from the exemption category provided by this
35 chapter~~((; or))~~.

36 (2) If the bonds used to fund the improvement in the local
37 improvement district have been completely retired, ~~((such))~~ the land

1 shall immediately become liable for: (a) The amount of the special
2 benefit assessment listed in the notice provided for in RCW 84.34.320;
3 plus (b) interest on the amount determined in (2)(a) of this section
4 compounded annually at a rate equal to the average rate of inflation
5 from the time the initial notice is filed by the governmental entity
6 (~~which~~) that created the local improvement district as provided in
7 RCW 84.34.320, to the time the bonds used to fund the improvement have
8 been retired; plus (c) interest on the total amount determined in
9 (2)(a) and (b) of this section at a simple per annum rate equal to the
10 average rate of inflation from the time the bonds used to fund the
11 improvement have been retired to the time the owner withdraws (~~such~~)
12 or removes the lands from the exemption category provided by this
13 chapter.

14 (3) The amount payable (~~pursuant to~~) under this section shall
15 become due on the date (~~such~~) the land is withdrawn or removed from
16 its current use or timber land classification and shall be a lien on
17 the land prior and superior to any other lien whatsoever except for the
18 lien for general taxes, and shall be enforceable in the same manner as
19 the collection of special benefit assessments are enforced by that
20 local government.

21 (4) Designation as forest land under RCW 84.33.130(1) as a result
22 of a merger of programs adopted under section 5 of this act is not
23 considered a withdrawal, removal, or a change in use under this
24 section.

25 **Sec. 10.** RCW 84.34.340 and 1992 c 52 s 18 are each amended to read
26 as follows:

27 (1) Whenever farm and agricultural land or timber land is withdrawn
28 or removed from its current use classification as farm and agricultural
29 land or timber land, except as provided in subsection (2) of this
30 section, the county assessor of the county in which (~~such~~) the land
31 is located shall forthwith give written notice of (~~such~~) the
32 withdrawal or removal to the local government or its successor (~~which~~
33 ~~had~~) that filed with the assessor the notice required by RCW
34 84.34.320. Upon receipt of the notice from the assessor, the local
35 government shall mail a written statement to the owner of (~~such~~) the
36 land for the amounts payable as provided in RCW 84.34.330. (~~Such~~)
37 The amounts due shall be delinquent if not paid within one hundred and

1 eighty days after the date of mailing of the statement, and shall be
2 subject to the same interest, penalties, lien priority, and enforcement
3 procedures that are applicable to delinquent assessments on the
4 assessment roll from which that land had been exempted, except that the
5 rate of interest charged shall not exceed the rate provided in RCW
6 84.34.330.

7 (2) Designation as forest land under RCW 84.33.130(1) as a result
8 of a merger of programs adopted under section 5 of this act is not
9 considered a withdrawal or removal under this section.

10 **Sec. 11.** RCW 84.34.370 and 1992 c 52 s 20 are each amended to read
11 as follows:

12 (1) Except as provided in subsection (2) of this section, whenever
13 a portion of a parcel of land (~~((which))~~) that was classified as farm and
14 agricultural or timber land (~~((pursuant to))~~) under this chapter is
15 withdrawn or removed from classification or there is a change in use,
16 and (~~((such))~~) the land has been exempted from any benefit assessments
17 (~~((pursuant to))~~) under RCW 84.34.320, the previously exempt benefit
18 assessments shall become due on only that portion of the land (~~((which))~~)
19 that is withdrawn or changed.

20 (2) Designation as forest land under RCW 84.33.130(1) as a result
21 of a merger of programs adopted under section 5 of this act is not
22 considered a withdrawal, removal, or a change in use under this
23 section.

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